IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

FRIDAY, THE 6TH JULY 2007 / 15TH ASHADHA 1929

Crl.MC.No. 2170 of 2007()

MC.487/2000 of FAMILY COURT, MANJERI

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PETITIONER: RESPONDENT IN MC:

MULLAVADAKKAN MUHAMMAD, S/O.KUNJIMOIDEEN
KEECHERRY VEEDU, A1-AMEEN NAGAR, KODINHI P.O.

BY ADV. SRI.DILIP MOHAN

RESPONDENTS: STATE AND RESPONDENT IN MC:

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1. MATTATHUKUNJI PATHUTTY, D/O. YAHOO,
MANATH VEEDU, KODINJI P.O., THIRURANGADI,
MALAPPURAM.

3. STATE OF KERALA,
REPRESENTED BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.GIKKU JACOB

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 06/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.2170 of 2007

Dated this the 6th day of July, 2007

O R D E R

Against the petitioner, an exparte order under Section 125 Cr.P.C has been passed by the Family Court, Manjeri. That order is put into execution. The petitioner apprehends arrest and detention in such execution application against him. According to the petitioner, he had no notice of the proceedings and he did not know of the exparte order passed till now. He was employed abroad and he has come back now. The petitioner has filed an application to set aside the exparte order. That petition is filed along with an application for condonation of delay. The learned Judge of the Family Court is not disposing of those applications. In the meantime, he is taking steps in the execution proceedings. It is, in these circumstances, prayed that there may be a direction not to proceed with the steps in execution and to dispose of application to set aside the exparte order as also the petition to condone the delay expeditiously in a specified time frame.

2. I am satisfied that the petitioner's request can be accepted provided, he deposits the entire amount payable under the impugned exparte order till this day before the learned Judge of the Family Court. In as much as marriage and paternity are disputed, I direct that the amount if deposited, shall not be released to the 1st

respondent until the disposal of the application to set aside the exparte order is disposed of. Appropriate directions regarding release can be issued by the learned Judge while disposing of the said petition to set aside the exparte order. Directions can be issued to the learned Judge of the Family Court to dispose of such application expeditiously also.

3. Considering the nature of the order which I propose to grant to the petitioner, I am satisfied that it is not necessary to order notice to the 1st respondent.

4. This Crl.M.C is, in these circumstances, allowed. If the petitioner deposits the entire amount due under the exparte order till this day, within a period of 30 days from this date, the learned Judge of the Family Court shall keep the execution proceedings in abeyance for a period of two months and in the meantime dispose of the application to set aside the exparte order.

5. Hand over a copy of this order to the learned counsel for the petitioner today itself.

(R.BASANT, JUDGE)

rtr/-